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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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10/629,448

07/29/2003

Bhooshan Prafulla Kelkar

CHA9 2003 003 US1

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04/09/2008

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EXAMINER

ART UNIT

PAPER NUMBER

DATE MAILED: 04/09/2008

Please find below and/or attached an Office communication concerning this application or proceeding.

Art Unit: 1631

Continuation of PTOL-462:

### **III. Status of Claims**

Under the heading “status of claims” Appellant has included the status of **rejections** under 35 USC 101 and status of rejections under 35 USC 112 with comment. It is noted that this heading is for status of claims only, as provided in MPEP 1205.02 (Appeal Brief Content [R-3] which states that this section shall contain:

A statement of the status of all the claims in the proceeding ( e.g., rejected, allowed or confirmed, withdrawn, objected to, canceled) and an identification of those claims that are being appealed.

### **IV. Status of Amendments**

Under the heading “status of amendments” Appellant has included a statement regarding the amendment field **before** final. This is improper, as this section shall include the following:

A statement of the status of any amendment filed **subsequent** to final rejection, i.e., whether or not the amendment has been acted upon by the examiner, and if so, whether it was entered, >or< denied entry.

### **VI. Grounds of Rejection to be Reviewed on Appeal**

Under the heading “rejection to be reviewed on appeal” Appellant includes a statement of the pending claims and cancelled claims. This is not proper. This heading shall contain only the following:

A concise statement of each ground of rejection presented for review.

Further, the statement pertaining to 35 USC 112, 1<sup>st</sup> paragraph (NEW MATTER on page 23, section III of the Appeal Brief) is incorrect. This is not an outstanding rejection. As the claims

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AFTER FINAL were not entered, this issue is not a pending rejection. The currently pending rejections as were present in the FINAL rejection are those under 35 USC 101 (non-statutory subject matter) and 35 USC 112, 2<sup>nd</sup> rejections. In the Advisory Action it was noted that had the amendments been entered, issues of new matter would be raised.

### **Conclusion**

Appellant is required to comply with provisions of 37 CFR 41.37(c). To avoid dismissal of the appeal, Appellant must comply with the provisions of 37 CFR 41.37(c) within ONE MONTH or THIRTY DAYS, whichever is longer, from the mailing of this communication. Extensions of time may be granted under 37 CFR 1.136.

/Lori A. Clow, Ph.D./  
Primary Examiner, Art Unit 1631

<b>Notification of Non-Compliant Appeal Brief (37 CFR 41.37)</b>	<b>Application No.</b> 10/629,448	<b>Applicant(s)</b> KELKAR ET AL.	
	<b>Examiner</b> Lori A. Clow, Ph.D.	<b>Art Unit</b> 1631	

**--The MAILING DATE of this communication appears on the cover sheet with the correspondence address--**

The Appeal Brief filed on 18 February 2008 is defective for failure to comply with one or more provisions of 37 CFR 41.37.

To avoid dismissal of the appeal, applicant must file an amended brief or other appropriate correction (see MPEP 1205.03) within **ONE MONTH or THIRTY DAYS** from the mailing date of this Notification, whichever is longer.

**EXTENSIONS OF THIS TIME PERIOD MAY BE GRANTED UNDER 37 CFR 1.136.**

1. ☐ The brief does not contain the items required under 37 CFR 41.37(c), or the items are not under the proper heading or in the proper order.
2. ☐ The brief does not contain a statement of the status of all claims, (e.g., rejected, allowed, withdrawn, objected to, canceled), or does not identify the appealed claims (37 CFR 41.37(c)(1)(iii)).
3. ☐ At least one amendment has been filed subsequent to the final rejection, and the brief does not contain a statement of the status of each such amendment (37 CFR 41.37(c)(1)(iv)).
4. ☐ (a) The brief does not contain a concise explanation of the subject matter defined in each of the independent claims involved in the appeal, referring to the specification by page and line number and to the drawings, if any, by reference characters; and/or (b) the brief fails to: (1) identify, for each independent claim involved in the appeal and for each dependent claim argued separately, every means plus function and step plus function under 35 U.S.C. 112, sixth paragraph, and/or (2) set forth the structure, material, or acts described in the specification as corresponding to each claimed function with reference to the specification by page and line number, and to the drawings, if any, by reference characters (37 CFR 41.37(c)(1)(v)).
5. ☐ The brief does not contain a concise statement of each ground of rejection presented for review (37 CFR 41.37(c)(1)(vi)).
6. ☐ The brief does not present an argument under a separate heading for each ground of rejection on appeal (37 CFR 41.37(c)(1)(vii)).
7. ☐ The brief does not contain a correct copy of the appealed claims as an appendix thereto (37 CFR 41.37(c)(1)(viii)).
8. ☐ The brief does not contain copies of the evidence submitted under 37 CFR 1.130, 1.131, or 1.132 or of any other evidence entered by the examiner **and relied upon by appellant in the appeal**, along with a statement setting forth where in the record that evidence was entered by the examiner, as an appendix thereto (37 CFR 41.37(c)(1)(ix)).
9. ☐ The brief does not contain copies of the decisions rendered by a court or the Board in the proceeding identified in the Related Appeals and Interferences section of the brief as an appendix thereto (37 CFR 41.37(c)(1)(x)).
10. ☒ Other (including any explanation in support of the above items):

Firstly, the Examiner apologizes for any inconvenience to Applicant caused by the Notification of Non-Compliance. However, the Board of Patent Appeals and Interferences will not accept an Appeal Brief that does not meet the items required under 37 CFR 41.37. In the instant case, the following headings contain improper listings and information: (see attached sheet).

/Lori A. Clow, Ph.D./  
Primary Examiner  
Art Unit: 1631